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Establishment of an international criminal court

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Note by the Secretary-General

1. Pursuant to General Assembly resolution 52/160 of 15 December 1997, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court was held from 15 June to 17 July 1998 at the headquarters of the Food and Agriculture Organization of the United Nations in Rome, Italy.

2. One hundred and sixty States participated in the Conference. Thirty-one organizations and other entities and 136 non-governmental organizations were also represented as observers at the Conference.[1]

3. On 17 July 1998, the Conference adopted the Rome Statute of the International Criminal Court (A/CONF.183/9) and the Final Act of the Conference (A/CONF.183/10). The Statute consists of 13 Parts containing a total of 128 articles.

4. The closing ceremony of the Conference, sponsored by the host Government of Italy, was held in Palazzo dei Conservatori at the Campidoglio on 18 July 1998.

5. The Statute was opened for signature on 17 July 1998 at the headquarters of the Food and Agriculture Organization of the United Nations and will remain open for signature in Rome at the Ministry of Foreign Affairs of Italy until 17 October 1998. After that date, the Statute will remain open for signature in New York, at United Nations Headquarters, until 31 December 2000.

6. The Statute is subject to ratification, acceptance or approval by signatory States. It is open also to accession by all States. Instruments of ratification, acceptance, approval or accession are to be deposited with the Secretary-General of the United Nations.

7. In accordance with the relevant provision, the Statute shall enter into force on the first day of the month after the sixtieth day following the date of the deposit of the sixtieth instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

8. The Conference also adopted six resolutions. In resolutions A, B, C and D, the Conference expressed its deep gratitude to the International Law Commission for its outstanding contribution in the preparation of the original draft of the Statute, which constituted the basis for the work of the Preparatory Committee (resolution A); paid tribute to the participants in the Preparatory Committee on the Establishment of an International Criminal Court and its Chairman, Mr. Adriaan Bos, for their outstanding and hard work, commitment and dedication (resolution B); expressed the deep appreciation and gratitude of the Conference to the People and the Government of Italy for making the necessary arrangements for the holding of the Conference in Rome, for their generous hospitality and for their contribution to the successful completion of the work of the Conference (resolution C); and, expressed its appreciation and thanks to Mr. Giovanni Conso, President of the Conference, Mr. Philippe Kirsch, Chairman of the Committee of the Whole, and Mr. M. Cherif Bassiouni, Chairman of the Drafting Committee, who, through their experience, skilful efforts and wisdom in steering the work of the Conference,

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contributed greatly to the success of the Conference (resolution D).

9. In resolution E, the Conference recognized that terrorist acts, by whomever and wherever perpetrated and whatever their forms, methods or motives, were serious crimes of concern to the international community, and that the international trafficking of illicit drugs was a very serious crime, sometimes destabilizing the political and social and economic order in States; regretted that no generally acceptable definition of the crimes of terrorism and drug crimes could be agreed upon for the inclusion, within the jurisdiction of the Court; and affirmed that the Statute of the International Criminal Court provided for a review mechanism, which allowed for an expansion in future of the jurisdiction of the Court. In the light of the above, the Conference recommended that, pursuant to the relevant provision of the Statute, a Review Conference should consider the crimes of terrorism and drug crimes with a view to arriving at an acceptable definition and their inclusion in the list of crimes within the jurisdiction of the Court.

10. The Conference also decided, in resolution F, to establish a Preparatory Commission for the International Criminal Court in order to take all possible measures to ensure the coming into operation of the Court without undue delay and to make the necessary arrangements for the commencement of its functions. The Secretary-General of the United Nations was requested to bring resolution F to the attention of the General Assembly of the United Nations for any necessary action. The text of resolution F is reproduced in the annex to the present note.

11. Pursuant to paragraph 7 of General Assembly resolution 51/207 of 17 December 1996, the Secretary-General established a trust fund for the participation of the least developed countries in the Preparatory Committee and the Diplomatic Conference. Pursuant to paragraph 7 of General Assembly resolution 52/160, the Secretary-General established a trust fund for the participation in the Preparatory Committee and the Diplomatic Conference of the developing countries other than those in the category of least developed countries. At the Conference, 33 least developed countries and 19 developing countries made use of those trust funds. The Governments of Belgium, Canada, Denmark, Finland, Germany, the Netherlands, Norway, Sweden and the United Kingdom of Great Britain and Northern Ireland, and the European Commission made contributions to the trust fund for the least developed countries. The Government of the Netherlands also made a contribution to the trust fund for the developing countries.

Notes

[1] For the lists of the participating States, organizations and other entities, and non-governmental organizations see annexes II, III and IV of the Final Act, respectively.

Annex

Resolution F of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

The United Nations Conference of Plenipotentiaries on the Establishment of an International Criminal Court,

Having adopted the Statute of the International Criminal Court,

Having decided to take all possible measures to ensure the coming into operation of the International Criminal Court without undue delay and to make the necessary arrangements for the commencement of its functions,

Having decided that a preparatory commission should be established for the fulfilment of these purposes,

Decides as follows:

1. There is hereby established the Preparatory Commission for the International Criminal Court. The Secretary-General of the United Nations shall convene the Commission as early as possible at a date to be decided by the General Assembly of the United Nations.

2. The Commission shall consist of representatives of States which have signed the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court and other States which have been invited to participate in the Conference.

3. The Commission shall elect its Chairman and other officers, adopt its rules of procedure and decide on its programme of work. These elections shall take place at the first meeting of the Commission.

4. The official and working languages of the Preparatory Commission shall be those of the General Assembly of the United Nations.

5. The Commission shall prepare proposals for practical arrangements for the establishment and coming into operation of the Court, including the draft texts of:

(a) Rules of Procedure and Evidence;

(b) Elements of Crimes;

(c) A relationship agreement between the Court and the United Nations;

(d) Basic principles governing a headquarters agreement to be negotiated between the Court and host country;

(e) Financial regulations and rules;

(f) An agreement on the privileges and immunities of the Court;

(g) A budget for the first financial year;

(h) The rules of procedure of the Assembly of States Parties.

6. The draft texts of the Rules of Procedure and Evidence and of the Elements of Crimes shall be finalized before 30 June 2000.

7. The Commission shall prepare proposals for a provision on aggression, including the definition and Elements of Crimes of aggression and the conditions under which the International Criminal Court shall exercise its jurisdiction with regard to this crime. The

Commission shall submit such proposals to the Assembly of States Parties at a Review Conference, with a view to arriving at an acceptable provision on the crime of aggression for inclusion in this Statute. The provisions relating to the crime of aggression shall enter into force for the States Parties in accordance with the relevant provisions of this Statute.

8. The Commission shall remain in existence until the *conclusion* of the first meeting of the Assembly of States Parties.

9. The Commission shall prepare a report on all matters within its mandate and submit it to the first meeting of the Assembly of States Parties.

10. The Commission shall meet at the Headquarters of the United Nations. The Secretary-General of the United Nations is requested to provide to the Commission such secretariat services as it may require, subject to the approval of the General Assembly of the United Nations.

11. The Secretary-General of the United Nations shall bring the present resolution to the attention of the General Assembly for any necessary action.